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EXTRAORDINARY

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PART II—Section 2

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन
के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed
as a separate compilation

RAJYA SABHA

The following Bill was introduced in the Rajya Sabha on the 6th August, 1984:—

BILL No. XVI OF 1984.

A Bill to provide for the enforcement of the standards of weight and measures established by or under the Standards of Weights and Measures Act, 1976, and for matters connected therewith or incidental thereto.

Be it enacted by Parliament in the Thirty-fifth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY.

1. (1) This Act may be called the Standards of Weights and Measures (Enforcement) Act, 1984.

(2) It extends to the whole of India.

(3) It shall come into force in a State on such date as the State Government may, by notification, appoint, and different dates may be appointed for different provisions thereof, in or in relation to, different—

(b) classes of undertakings in the State; or

(c) classes of undertakings in the State; or

title,
extent
and
Commence-
ment.

(c) classes of goods produced, sold, distributed, marketed or transferred in the State; or

(d) classes of services rendered in the State; or

(e) classes of weights and measures manufactured, sold, distributed, marketed, transferred, repaired or used in the State; or

(j) classes of users of weights and measures in the State,

and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of this Act, or, as the case may be, of that provision, in such areas or in respect of such classes of undertakings, goods, services, classes of weights and measures or classes of users of weights and measures, in relation to which, or whom, this Act has been brought into force.

Act not to
apply to
inter-State
trade or
commerce.

2. Nothing in this Act shall apply to any inter-State trade or commerce in—

(a) any weight or measure, or

(b) in any other goods which are sold, delivered or distributed by weight, measure or number.

Definitions.

3. In this Act, unless the context otherwise requires,—

(a) "Additional Controller" includes a Joint Controller, Deputy Controller and an Assistant Controller appointed under section 5;

(b) "authorised seal or stamp" means a seal or stamp made under, and in accordance with, the provisions of this Act;

(c) "Controller" means the Controller of Legal Metrology appointed under section 5;

(d) "counterfeit", in relation to a seal or stamp, means a seal or stamp which is so made as to resemble an authorised seal or stamp, as the case may be, intending by that resemblance to practise deception, or knowing it to be likely that deception will thereby be practised.

Explanation I.—It is not essential that the resemblance of the counterfeit seal or stamp to the authorised seal or stamp should be exact.

Explanation II.—When a person causes a counterfeit seal or stamp to resemble an authorised seal or stamp and the resemblance is such that if a person relies on such seal or stamp, he might be deceived thereby, it shall be presumed, until the contrary is proved, that the person so causing the seal or stamp to resemble the authorised seal or stamp intended by means of that resemblance to practise deception or knew it to be likely that deception would thereby be practised;

(e) "heap" means any unit of a commodity for sale where such sale is intended to be made without any weighment or measurement or, where the sale is made by number, without counting the number;

(f) "Inspector" means a person who is appointed as such under section 5, by whatever name called;

(g) "mint" means a mint of the Central Government;

(h) "notification" means a notification published in the Official Gazette;

(i) "prescribed" means prescribed by rules made under this Act;

(j) "protection" means the utilisation of any weight or measure, or any reading obtained with the help of any weight or measure, for the purpose of determining whether or not any step is required to be taken to safeguard the well-being of any human being or animal, or to protect any commodity, vegetation or thing, whether individually or collectively;

(k) "Standards Act" means the Standards of Weights and Measures Act, 1976;

(l) "standard weight or measure" means a weight, measure or number which conforms to the standards established in relation thereto by or under the Standards Act;

(m) "State Act" means the Act enacted by the Legislature of a State for the enforcement of the standards established by or under the Standards of Weights and Measures Act, 1956;

(n) "State Government", in relation to a Union territory, means the Administrator thereof;

(o) words and expressions used in this Act and not defined but defined in the Standards Act shall have the meanings respectively assigned to them in that Act.

4. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Act and the Standards Act or in any instrument having effect by virtue of any enactment other than this Act or the Standards Act.

Provisions of this Act to override the provisions of any other law except the Standards Act.

CHAPTER I

APPOINTMENT OF CONTROLLERS, INSPECTORS AND OTHER OFFICERS

5.(1) The State Government may, by notification, appoint a Controller of Legal Metrology for the State and any Additional, Joint, Deputy or Assistant Controllers, Inspectors, and other officers and staff as may be necessary for exercising the powers and efficiently discharging the duties, conferred or imposed on them by or under this Act or the Standards Act.

Appointment of Controllers, Inspectors and other officers and staff.

(2) Every Additional Controller, Inspector or other officer, appointed under sub-section (1), shall exercise such powers and discharge such functions of the Controller as the State Government may, by notification, authorise in this behalf,

(3) The Controller may, by general or special order, define the local limits within which each Additional Controller, Inspector or other officer, appointed under sub-section (1), shall exercise his powers and discharge the duties conferred or imposed on him by or under this Act.

(4) Subject to the provisions of this Act, every Additional Controller, Inspector and other officer appointed under sub-section (1), shall exercise his powers and discharge the duties of his office under the general superintendence, direction and control of the Controller and shall exercise those powers and discharge those duties in the same manner and with the same effect as if they had been conferred or imposed on him directly by or under this Act and not by way of authorisation.

(5) The Controller and every Additional Controller and other officer authorities by or under this Act may also—

(a) perform all or any of the functions of, and

(b) exercise all or any of the powers conferred by this Act or any rule or order made thereunder, on,
an Inspector.

Power to
authorise
Inspector
to adjust
weights or
measures.

6. Where the Controller is of opinion that it is necessary so to do, he may, by an order in writing, authorise any officer not below the rank of an Inspector, to adjust any weight or measure in any area within the local limits of his jurisdiction.

Controller
and
officers
appointed
under this
Act to be
public
servants.

7. (a) The Controller and every Additional Controller, and every Inspector, and

(b) every other officer authorised by or under this Act to perform any duty.

shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

45 of 1860.

Protection
of action
taken in
good
faith.

8. No suit, prosecution or other legal proceeding shall lie against the Controller, any Additional Controller, Inspector or any other person authorised by or under this Act to exercise any power or to perform any duty in respect of anything which is in good faith done or intended to be done under this Act or the Standards Act or any rule or order made under either of the Acts aforesaid.

CHAPTER III

GENERAL PROVISIONS IN RELATION TO STANDARD WEIGHTS AND MEASURES

Prohibition
of use of
weights and
measures
other than
standard
weights and
measures.

9. (1) Notwithstanding any custom, usage or method of whatever nature, no weight or measure, other than the standard weight or measure, shall be used or kept in any premises in such circumstances as to indicate that such weight or measure is intended, or is likely to be used, for any weighing or measurement.

(2) On and from the commencement of this Act, no weight, measure or number, other than the standard weight or measure shall be used in, or form the basis of, any contract or other agreement in relation to any trade, commerce, production or protection.

(3) Any contract or other agreement, which contravenes the provisions of sub-section (2), shall be void.

10. (1) The State Government may, by rules made in this behalf, direct that in respect of the classes of goods, services or undertakings or users specified therein—

- (a) no transaction, dealing or contract shall be made or had, or
- (b) no industrial production shall be undertaken, or
- (c) no use for protection shall be made,

except by such weight, measure or number as may be specified therein.

(2) Any rule made under sub-section (1) shall take effect in such area, from such future date and subject to such conditions, if any, as may be specified therein.

11. Except where he is permitted under the Standards Act so to do, no person shall, in relation to any goods or things which are sold, transferred, distributed or delivered, or any service rendered—

(a) quote, or make announcement of, whether by word of mouth or otherwise, any price or charge, or

(b) issue or exhibit any price list, invoice cash memo or other document, or

(c) mention any weight or measure in any advertisement, poster or other document, or

(d) indicate the weight measure or number of the net contents of any package on the package itself or on any label, carton or other thing, or

(e) express, in relation to any transaction, industrial production or protection, any quantity or dimension,

otherwise than in accordance with the standard weight or measure.

Use of weights only or measures only in certain cases.

Prohibition of quotations, etc., otherwise than in terms of standard weight or measure.

CHAPTER IV

CUSTODY AND VERIFICATION OF STANDARD EQUIPMENTS

12. Every reference standard shall be kept at such place and in such custody as may be prescribed and no such reference standard shall be deemed to be a reference standard and shall be used as such unless it has been verified, authenticated and maintained in accordance with the rules made under the Standards Act

Custody and verification of reference standards.

13. The State Government may cause to be prepared at the metrological wing of the mint at Bombay, as many sets of secondary standards or working standards as it may think necessary:

Preparation of secondary and working standards

Provided that where the mint intimates the State Government in writing that it is unable to prepare any secondary standard or working standard that Government may cause such secondary standard or working standard to be prepared by such organisation as the Central Government may, on a reference made to it by the State Government, by notification, specify in this behalf.

Verification,
stamping
and custody
of second-
ary or
working
standards.

14. (1) Every secondary standard or working standard referred to in section 13, shall conform to the standards established by or under the Standards Act and shall be verified—

(a) in the case of a secondary standard, at any one of the places where reference standards are maintained, against the appropriate reference standard;

(b) in the case of a working standard, at any one of the places where secondary standards are maintained, against the appropriate secondary standard,

in such manner and at such periodical intervals as may be specified by or under the Standards Act and shall, if found on such verification to conform to the standards established by or under that Act, be stamped.

(2) Where any secondary standard or working standard is stamped under sub-section (1), a certificate shall be separately issued showing the date on which such weight or measure was stamped.

(3) Every verification and stamping referred to in sub-section (1) shall be made by such person or authority as may be specified by or under the Standards Act.

(4) A secondary standard or working standard which is not verified and stamped in accordance with the provisions of sub-section (1) and sub-section (3) shall not be deemed to be a secondary standard or working standard, as the case may be, and shall not be used for the verification of any working standard or, as the case may be, for the verification of any weight or measure.

(5) Every verified secondary standard and every verified working standard shall be kept at such place and in such custody as may be prescribed.

Secondary
or working
standard
which may
not be
stamped.

15. (1) Where the State Government is of opinion that by reason of the size or nature of any secondary standard or working standard, it is not desirable or practicable to put a stamp thereon, it may direct that instead of putting a stamp on such secondary standard or working standard, a certificate may be issued to the effect that such secondary standard or working standard conforms to the standards established by or under the Standards Act and every secondary standard or working standard so certified shall be deemed to have been duly stamped under this Act on the date on which such certificate was issued.

(2) Every certificate referred to in sub-section (1) shall be in such form as may be prescribed and shall contain such details as to enable a clear identification of the weight or measure to which it relates.

CHAPTER V

REGISTRATION OF USERS OF WEIGHTS AND MEASURES

Persons
using
weights
or measures
for transac-
tions or
industrial
production
or for pro-
tection to
get them-
selves regis-
tered.

16. No person, not being an itinerant vendor, shall use any weight or measure in any transaction for industrial production or for protection unless he is registered in accordance with the provisions of this Chapter.

17. (1) Every person, who intends to commence, or carry on, the use of any weight or measure in any transaction or for industrial production or for protection, shall make, within such time and containing such particulars as may be prescribed, an application for the inclusion of his name in a register to be maintained for the purpose (hereinafter in this section referred to as the "Register of Users").

Procedure
of regis-
tration.

(2) The Register of Users shall be maintained in such form and in such manner as may be prescribed.

(3) The application referred to in sub-section (1) shall be made to the Controller or to such other person as the Controller may, by general or special order in writing, authorise in this behalf and every such application shall be made in such form, in such manner and on payment or such fee as may be prescribed.

(4) On receipt of the application referred to in sub-section (1), the Controller or the person authorised by him shall include the name of such person in the Register of Users and issue to the applicant a certificate to the effect that his name has been so included.

(5) A certificate issued under sub-section (4) shall be valid for the period specified therein and may be renewed from time to time for such further period and on payment of such fee as may be prescribed.

18. Whoever uses, after the expiry of the period prescribed under sub-section (1) of section 17, any weight or measure in any transaction or for industrial production or for protection shall, unless he is registered in accordance with the provisions of this Chapter, be punishable with fine which may extend to five hundred rupees, and for the second or subsequent offence, with imprisonment for a term which may extend to six months, or with fine, or with both.

Punishment
for non-
registration.

CHAPTER VI

MANUFACTURE REPAIR OR SALE OF WEIGHTS OR MEASURES

19. (1) No person shall make, manufacture, repair or sell, or offer, expose or possess for repair or sale, any weight or measure unless he holds a valid licence issued in this behalf by the Controller authorising such person to do so:

Prohibition
on the manufac-
ture, repair
or sale of
weights or
measures
without
licence.

Provided that a person who *bona fide* repairs any weight or measure owned and possessed by him shall not be required to take out a licence referred to in this sub-section.

(2) Every licence issued under this section—

(a) shall be—

(i) in such form,

(ii) issued on payment of such fees, and

(iii) valid for such period,

as may be prescribed,

(b) may be renewed from time to time, and

(c) may contain such conditions and restrictions as may be prescribed.

(3) Every licence issued under the State Act shall, if in force immediately before the commencement of this Act, continue to be in force until the expiry of the period of its validity, or until the cancellation thereof, whichever is earlier, and may be renewed under this Act after the expiry of the period of its validity, if an application for such renewal is made in the prescribed form at least one month before the expiry of the period of validity of the licence.

(4) Every person who intends to commence business, after the commencement of this Act, as a maker, manufacturer, repairer or seller of any weight or measure, shall make an application in such form and on payment of such fees as may be prescribed, for the issue of a licence to him, and every licence so issued may be renewed if an application for its renewal, accompanied by such fee as may be prescribed, is made by such person in the prescribed form at least one month before the expiry of the period of its validity.

(5) The Controller may, if he is satisfied that the maker, manufacturer, repairer or seller, as the case may be, of any weight or measure was prevented by sufficient cause from making an application for the renewal of his licence before the expiry of the period of the validity thereof, permit him to make the application within a further period of one month from the date of expiry of the period of such validity, on payment by him of such further fee, not exceeding the fee which is payable for the issue of the licence.

(6) No application for the issue or renewal of a licence shall be rejected unless—

(a) the applicant or, as the case may be, the holder of the licence has been given a reasonable opportunity of showing cause against the proposed action, and

(b) the Controller is satisfied that—

(i) the application has not been made within the time specified in this section, or

(ii) the applicant has made any statement in, or in relation to, the application for the issue or renewal of the licence which is incorrect or false in material particulars, or

(iii) the applicant has contravened any provision of the Standards Act or of any State Act or of this Act or of any rule or order made under the Standards Act, State Act or this Act.

(7) The Controller may require every repairer licensed under this Act to furnish to the State Government security for such sum, not exceeding two hundred rupees, as may be prescribed.

(8) Nothing contained in this section shall apply to the sale by a user (who is not a maker, manufacturer, dealer or repairer) of any weight or measure:

Provided that no sale of any weight or measure of the prescribed description shall be made except with the written permission of the Controller.

(9) Every licence issued or renewed under this Act shall be displayed in a conspicuous place in the premises where the licensee carries on his business.

20. (1) The Controller may, if he has any reasonable cause to believe that the holder of any licence issued, renewed or continued under this Act has made any statement in, or in relation to, any application for the issue, renewal or continuance of the licence, which is incorrect or false in any material particular or has contravened any provision of the Standards Act or any State Act or this Act or any rule or order made thereunder, suspend such licence, pending the completion of any inquiry or trial against the holder of such licence:

Suspension
and can-
cellation of
licence.

Provided that no such licence shall be suspended unless the holder thereof has been given a reasonable opportunity of showing cause against the proposed action:

Provided further that where the inquiry or trial referred to in this sub-section is not completed within a period of three months from the date of suspension of a licence, such suspension shall, on the expiry of the period aforesaid, stand vacated.

(2) The Controller may, if he is satisfied, after making such inquiry as he may think fit, that the holder of a licence has made a false or incorrect statement of the nature referred to in sub-section (1), or has contravened any law or order referred to in that sub-section, cancel such licence:

Provided that no such licence shall be cancelled unless the holder thereof has been given a reasonable opportunity of showing cause against the proposed action.

(3) Every person whose licence has been suspended shall, immediately after such suspension, stop functioning as such licensee and shall not resume business as such licensee until the order of such suspension has been, or stands, vacated.

(4) Every licensee whose licence has been suspended or cancelled shall, after such suspension or cancellation, as the case may be, surrender such licence to the authority by which such licence was issued.

(5) Every licensee whose licence has been cancelled shall, within a period of thirty days from the date of such cancellation, or within such further period, not exceeding three months from such date, as the Controller may, on sufficient cause being shown, allow, dispose of the weights or measures which were in his possession, custody or control on the date of such cancellation, and in the event of his failure to do so, the Controller or any other officer authorised by him, in writing, in this behalf, may seize and dispose of the same and distribute the proceeds thereof in such manner as may be prescribed.

21. Save as otherwise provided in the Standards Act, no person shall —

Manufac-
ture of
weight or
measures

(a) make or manufacture any weight or measure unless such weight or measure conforms to the standards established by or under the Standards Act;

(b) make or manufacture any weight or measure with indications thereon of any weights or measures in accordance with any

unit other than the units of weight or measure specified by or under the Standards Act.

Prohibition of sale or use of unstamped weights or measures.

22. No weight or measure shall be sold, or offered, exposed or possessed for sale, or used or kept for use in any transaction or for industrial production or for protection unless it has been verified and stamped:

Provided that nothing in this section shall apply to any weight or measure which has been initially verified and stamped with a special seal referred to in sub-section (3) of section 41 of the Standards Act.

Manufacturer, etc., to maintain records and registers.

23. (1) Every maker, manufacturer, repairer or dealer and every person using any weight or measure in any transaction or for industrial production or for protection shall maintain such records and registers as may be prescribed, and, if required so to do by an Inspector, shall produce such records and registers before the Inspector for inspection.

(2) Notwithstanding anything contained in sub-section (1), if the Controller is of opinion that having regard to the nature or volume of the business carried on by any maker, manufacturer, dealer, repairer or user of any weight or measure, it is necessary so to do, he may, by order, exempt such maker, manufacturer, dealer, repairer or user from the operation of sub-section (1).

CHAPTER VII

VERIFICATION AND STAMPING OF WEIGHTS OR MEASURES

Verification and stamping of weights or measures.

24. (1) Every person having any weight or measure in his possession, custody or control in circumstances indicating that such weight or measure is being, or is intended or likely to be, used by him in any transaction or for industrial production or for protection, shall, before putting such weight or measure into such use, have such weight or measure verified at such place and during such hours as the Controller may, by general or special order, specify in this behalf (hereinafter referred to as the specified place or specified time), on payment of such fees as may be prescribed.

(2) Every weight or measure referred to in sub-section (1) shall be re-verified at such periodical intervals as may be prescribed.

Explanation.—For the removal of doubts it is hereby declared that no periodical re-verification shall be necessary in relation to any weight or measure which is used exclusively for domestic purposes.

(3) Every Inspector shall, for the purpose of verification of any weight or measure, attend the specified place (within the local limits of his jurisdiction) at the specified time and verify every weight or measure which is brought to him at such place and within such time and shall, if he is satisfied that such weight or measure conforms to the standards established by or under the Standards Act, put his stamp thereon:

Provided that where any weight or measure is such that it cannot, or should not, be moved from its location, the Inspector shall take such steps for the verification of such weight or measure at the place of its location as may be prescribed.

(4) Where any verification has been made under sub-section (3), the Inspector shall grant to the person referred to in sub-section (1) a certificate in the prescribed form indicating therein the particulars of the weight or measure verified and stamped by him.

(5) Where the Controller is of opinion that by reason of the size or nature of any weight or measure, it is not desirable or practicable to put a stamp thereon, he may, by an order in writing, direct that instead of putting a stamp on such weight or measure, a certificate may be issued to the effect that such weight or measure conforms to the standards established by or under the Standards Act and every weight or measure so certified shall be deemed to have been duly verified and stamped under this Act on the date on which such certificate was issued.

(6) Every certificate referred to in sub-section (5) shall be in such form as may be prescribed and shall contain such details as to enable a clear identification of the weight or measure to which it relates.

25. Every certificate of verification granted under this Act shall be displayed in a conspicuous place in the premises where such weight or measure is being, or is intended or likely to be, used in any transaction or for industrial production or for protection.

Display of
certificate
of veri-
fication.

26. (1) A weight or measure which is, or is deemed to be, duly verified and stamped under this Act shall be deemed to conform to the standards established by or under the Standards Act at every place within the State in which it is stamped unless it is found on inspection or verification that such weight or measure has ceased to conform to the standards established by or under the Standards Act.

Validity
of weights
or measures
duly
stamped.

(2) No weight or measure which is, or is deemed to be, duly verified and stamped under this Act shall require to be re-stamped merely by reason of the fact that it is being used at any place within the State other than the place at which it was originally verified and stamped:

Provided that where a verified weight or measure, installed at one place, is dismantled and re-installed at a different place, such weight or measure shall not be put into use unless it has been duly re-verified and stamped, notwithstanding that periodical re-verification of such weight or measure has not become due.

(3) Where a verified weight or measure has been repaired, whether by a licensed repairer or by the person owning and possessing the same, such weight or measure shall not be put into use unless it has been duly re-verified and stamped, notwithstanding that periodical re-verification of such weight or measure has not become due.

CHAPTER VIII

INSPECTION, SEARCH, SEIZURE AND FORFEITURE

27. (1) An Inspector may, within the local limits of his jurisdiction, inspect and test, at all reasonable times, any weight or measure which—

Power to
inspect.

(i) is in the possession, custody or control of any person, or

(ii) is in or on any premises,

in such circumstances as to indicate that such weight or measure is being, or is intended or likely to be, used in any transaction or for

Industrial production or for protection, and may also verify whether such weight or measure is in conformity with the standards established by or under the Standards Act.

(2) For the purpose of ascertaining the correctness of any weight or measure used in any transaction, an Inspector may also test the weight or measure of the article sold or delivered to any person in the course of such transaction.

Power of
Inspector
to require
produc-
tion of
weight or
measure
or records
for ins-
pection.

28. (1) An Inspector may, if he has any reasonable cause to believe that an offence punishable under this Act has been, or is likely to be, committed in respect of any weight or measure or that any weight or measure does not conform to the standards established by or under the Standards Act, require, at all reasonable times, the person having the custody or control of such weight or measure to produce before him for inspection every such weight or measure which—

(i) is used by such person or is caused by such person to be used by any other person, or

(ii) is in the possession, custody or control of such person for use, or

(iii) is kept in or on any premises for use, in any transaction or for industrial production or for protection.

(2) The Inspector may also require the production of every document or other record relating to the weight or measure referred to in sub-section (1) and the person having the custody of such weight or measure shall comply with such requisition.

(3) On inspection, whether under section 27 or under this section the Inspector shall obliterate the stamp on—

(a) any weight or measure which, being due for verification, has not been submitted for such verification;

(b) any weight or measure which, since the last verification and stamping, has been repaired or re-adjusted, and does not, after such repair or re-adjustment, conform to the standards established by or under the Standards Act;

(c) any weight or measure which does not admit of proper adjustment by reason of its being broken, indented or otherwise defective;

(d) any weight or measure other than those specified in clause (b) or clause (c) which does not, or cannot be made to, conform to the standards established by or under the Standards Act:

Provided that where the Inspector is of opinion that the defect or error in such weight or measure is not such as to require immediate obliteration of the stamp, he shall serve a notice on the user of such weight or measure informing him of the defect or error found in the weight or measure and calling upon him to remove the defect or error within such time, not exceeding eight days, as he may specify, and shall—

(i) if the user fails to remove the defect or error within that period, obliterate the stamp, or

(ii) if the defect or error is so removed as to make the weight or measure conform to the standards established by or under the Standards Act, verify such weight or measure and put his stamp thereon.

Explanation.—The obliteration of the stamp on any weight or measure shall not take away or abridge the power of the Inspector to seize such weight or measure in accordance with the provisions of this Act.

29. An Inspector may, if he has any reason to believe, whether from any information given to him by any person and taken down by him in writing or from personal knowledge or otherwise that an offence punishable under this Act has been, or is likely to be, committed in relation to any weight, measure or other goods which are sold, delivered or distributed by weight, measure or number, enter, at all reasonable times, into any premises—

Power of
Inspector
to enter
premises.

(i) where such weight or measure is—

(a) made, manufactured, repaired, or sold, or

(b) used, or kept or believed to be kept for use, in any transaction or for industrial production or for protection;

(ii) where such goods are manufactured, packed, distributed or sold or kept or offered for sale in packaged form,

and inspect or verify any weight or measure or the net contents, by weight, measure or number, of any package, and may also examine any document or other record relating thereto.

30. (1) Where the Controller has reason to believe that any weight or measure, liable to be seized under this Act, or any document or thing in relation to any weight or measure, will be in his opinion, useful for or relevant to, any proceeding under this Act, is secreted in any place he may search or authorise any officer, not below the rank of an Inspector, to search for, and seize, such weight or measure, document or thing, and the provisions of sections 100 and 102 of the Code of Criminal Procedure, 1973, shall apply to every such search.

Power to
search.

2 of 1974.

(2) Every authorisation made by the Controller under sub-section (1) shall be deemed to be a warrant referred to in section 93 of the Code of Criminal Procedure, 1973

2 of 1974.

31. (1) An Inspector may seize and detain any weight or measure in relation to which an offence under this Act is being, or appears to have been, committed, or which is intended or likely to be used in the commission of such offence, and may also seize and detain any goods sold or delivered or cause to be sold or delivered, by such weight or measure:

Power of
Inspector
to seize
any
weight or
measure.

Provided that where any goods seized under this sub-section are subject to speedy or natural decay, the Inspector may dispose of such goods in such manner as may be prescribed.

(2) Where any weight measure or any article is seized and detained under sub-section (1), the Inspector may also seize and detain any document or other record relating to such weight, measure or article.

(3) The provisions of section 102 of the Code of Criminal Procedure, 1973, shall apply to every seizure made under this section.

2 of 1974.

Forfeiture.

32. Every false or unverified weight or measure (other than those referred to in section 30 of the Standards Act) seized under the provisions of this Act shall be liable to be forfeited to Government:

Provided that such unverified weight or measure shall not be forfeited to the Government if the person from whom such weight or measure was seized gets the same verified and stamped within such time as may be prescribed.

CHAPTER IX

PROVISIONS WITH REGARD TO THE SALE AND DISTRIBUTION OF COMMODITIES IN PACKAGED FORM WITHIN THE STATE

Provisions of the Standards Act and the rules made thereunder relating to commodities in packaged form to apply to commodities in packaged form sold or distributed within the State.

33. (1) The provisions of the Standards Act and the rules made thereunder, as in force immediately before the commencement of this Act, with regard to commodities in packaged form shall, as far as may be, apply to every commodity in packaged form which is distributed, sold, or kept, offered or exposed for sale, in the State as if the provisions aforesaid were enacted by, or made under, this Act subject to the modification that any reference therein to the "Central Government", "Standards Act" and the "Director" shall be construed as references respectively, to the "State Government", "this Act" and the "Controller".

(2) The State Government may make rules, not inconsistent with the Standards Act or any rule made thereunder, to regulate the packaging of any commodity intended to be sold or distributed, within the State, in packaged form, or to regulate the sale or distribution, within the State, of any commodity in packaged form.

Explanation.—For the purpose of this section, "commodity in packaged form" shall have the meaning assigned to it in the Standards Act, and shall include a pre-packed commodity.

CHAPTER X

PROVISIONS WITH REGARD TO ANY CUSTOM OR USAGE RELATING TO THE SALE OF ANY COMMODITY, WHETHER BY QUANTITY OR NUMBER, AND SALE OF COMMODITIES BY HEAPS

Custom or usage requiring delivery of additional quantities to cease.

34. (1) Any custom, usage, practice or method of whatever nature which permits a person to demand, receive, or cause to be demanded or received, any quantity of article, thing or service in excess of, or less than, the quantity specified by weight, measure or number in any contract or other agreement in relation to the said article, thing or service, shall be void.

(2) Where, in relation to any commodity sold by number, there is a custom or usage of delivering a fixed number of such commodity in addition to the number of commodities paid for, such custom or usage shall, on and from the commencement of this Act, cease.

Sale by heaps.

35. (1) Where any commodity is sold by heaps, the approximate weight, measure or number of the commodity contained in each heap shall be conspicuously announced by the seller or his agent, if any, either by word of mouth or by a written notice placed on each heap.

Provided that no such announcement shall be necessary in the case of a heap where the total price of the commodity contained in such heap does not exceed two rupees.

(2) Where, on weighment, measurement or counting of any commodity sold by heap, it is found that the weight, measure or number, determined by such weighment, measurement or counting, is less than the approximate weight, measure or number announced by the seller or his agent and the deficiency is more than five per cent. of such announced weight, measure or number, the seller shall be deemed to have used a false weight or measure.

CHAPTER XI

OFFENCES AND PENALTIES

36. Whoever—

(a) makes or manufactures, or causes to be made or manufactured (except where he is permitted under the Standards Act so to do), any weight or measure in accordance with any standards other than the standards established by or under the Standards Act, or

Penalty
for manu-
facturing,
etc., of
non-
standard
weights or
measures.

(b) (i) sells or otherwise transfers, or causes to be sold or otherwise transferred, or

(ii) lets, or causes to be let, on hire,

any weight or measure which has been manufactured in accordance with any standards other than the standards established by or under the Standards Act, shall be punished with imprisonment for a term which may extend to one year, and, for the second or subsequent offence, with imprisonment for a term which may extend to three years and also with fine.

37. (1) Whoever—

(i) counterfeits any seal specified by or under this Act or the Standards Act, or

Penalty
for
counter-
feiting of
seals, etc.

(ii) sells or otherwise disposes of any counterfeit seal, or

(iii) possesses any counterfeit seal, or

(iv) counterfeits any stamp, specified by or under this Act or the Standards Act or any rule made under either of those Acts, or

(v) removes any stamp made, whether under this Act or the Standards Act or any rule made under either of those Acts, or tampers with any stamp so made, or

(vi) removes any stamp made, whether under this Act or the Standards Act or any rule made under either of those Acts, and affixes the stamp so removed on, or inserts the same into, any other weight or measure, or

(vii) increases or diminishes or alters in any way any weight or measure with a view to deceiving any person or knowing or having reason to believe that any person is likely to be deceived thereby,

shall be punished with imprisonment for a term which may extend to two years, and, for the second or subsequent offence, with imprisonment for a term which may extend to five years and also with fine.

(2) Whoever obtains, by unlawful means, possession of any seal specified by or under this Act or the Standards Act and uses, or causes to be used, any such seal for making any stamp on any weight or measure with a view to representing that the stamp made by such seal is authorised by or under this Act or the Standards Act shall be punished with imprisonment for a term which may extend to two years, and, for the second or subsequent offence, with imprisonment for a term which may extend to five years and also with fine.

(3) Whoever, being in lawful possession of a seal specified by or under this Act or the Standards Act uses, or causes to be used, such seal without any lawful authority for such use, shall be punished with imprisonment for a term which may extend to two years, and, for the second or subsequent offence, with imprisonment for a term which may extend to five years and also with fine.

(4) Whoever sells, or offers or exposes for sale or otherwise disposes of any weight or measure which, he knows or has reason to believe, bears thereon a counterfeit stamp, shall be punished with imprisonment for a term which may extend to two years, and, for the second or subsequent offence, with imprisonment for a term which may extend to five years and also with fine.

Penalty
for sale
or deli-
very of
commodi-
ties, etc.
by non-
standard
weight or
measure.

38. (1) Except where he is permitted under the Standards Act so to do, whoever sells, or causes to be sold, delivers, or causes to be delivered, any commodity, article or thing by any weight, measure or number other than the standard, weight or measure, shall be punished with fine which may extend to two thousand rupees, and, for the second or subsequent offence, with imprisonment for a term which may extend to one year and also with fine.

(2) Whoever renders, or causes to be rendered, any service in terms of any weight, measure or number other than the standard weight or measure, shall be punished with fine which may extend to two thousand rupees, and, for the second or subsequent offence with imprisonment for a term which may extend to one year and also with fine.

Penalty
for keep-
ing non-
standard
weights
or mea-
sures for
use and
for other
contra-
ventions

39. (1) Whoever keeps any weight or measure other than the standard weight or measure in any premises in such circumstances as to indicate that such weight or measure is being, or is likely to be, used for any—

(a) weighment or measurement, or

(b) transaction or for industrial production or for protection, shall be punished with fine which may extend to two thousand rupees, and, for the second or subsequent offence, with imprisonment for a term which may extend to one year and also with fine.

(2) Whoever,—

(i) in selling any article or thing by weight, measure or number, delivers or causes to be delivered to the purchaser any quantity or number of that article or thing less than the quantity or number contracted for and paid for, or

(ii) in rendering any service by weight, measure or number, renders that service less than the service contracted for and paid for, or

(iii) in buying any article or thing by weight, measure or number, fraudulently receives, or causes to be received any quantity or number of that article or thing in excess of the quantity or number contracted for and paid for, or

(iv) in obtaining any service by weight, measure or number, obtains that service in excess of the service contracted for and paid for,

shall be punished with fine which may extend to five thousand rupees, and, for the second or subsequent offence, with imprisonment for a term which may extend to five years and also with fine.

(3) Whoever enters, after the commencement of this Act, into any contract or other agreement (not being a contract or other agreement for export) in which any weight, measure or number is expressed in terms of any standard other than the standard weight or measure, shall be punished with fine which may extend to two thousand rupees, and, for the second or subsequent offence, with imprisonment for a term which may extend to one year and also with fine.

40. whoever, in relation to any specified class of goods, services undertakings or users of weights or measures, uses in any transaction or for industrial production or for protection, any weight, measure or number, other than the weight, measure or number specified by rules made under section 10, shall be punished with fine which may extend to two thousand rupees, and, for the second or subsequent offence, with imprisonment for a term which may extend to one year and also with fine.

Penalty for contravention of section 10.

41. Except where he is permitted under the Standards Act so to do, whoever, in relation to any goods or things which are sold, transferred, distributed or delivered, or any service rendered,—

Penalty for contravention of section 11.

(a) quotes any price or charge, or makes any announcement with regard to the price or charge, or

(b) issues or exhibits any price list, invoice, cash memo, or other document, or

(c) mentions any weight or measure in any advertisement, poster or other document, or

(d) indicates the weight, measure or number of the net contents of any package or on any label, carton or other thing, or

(e) expresses in relation to any transaction, industrial production or protection, any quantity or dimension,

otherwise than in accordance with the standard weight or measure, shall be punished with fine which may extend to two thousand rupees, and, for the second or subsequent offence, with imprisonment for a term which may extend to one year and also with fine.

42. Whoever, being required to obtain a licence under this Act, makes, manufactures, repairs or sells or offers, exposes or possesses for repair or sale, any weight or measure, without being in possession of a valid licence empowering him to do so, shall be punished with imprisonment for a term which may extend to one year, or with fine which may

Penalty for contravention of section 19.

extend to two thousand rupees, or with both, and, for the second or subsequent offence, with imprisonment for a term which may extend to three years and also with fine.

Penalty
for con-
traven-
tion of
section
20.

43. A licensee who after the suspension or cancellation of the licence issued to him or renewed or continued under this Act, omits or fails to stop functioning as a licensee under this Act, shall be punished with imprisonment for a term which may extend to one year.

Penalty
for con-
traven-
tion of
section
21.

44. Except where he is permitted under the Standards Act so to do, whoever makes or manufactures any weight or measure which,—

(a) though ostensibly purports to conform to the standards established by or under that Act, does not actually conform to the said standards, or

(b) bears thereon any indication of weight or measure which is not in conformity with the standards of weight or measure established by or under that Act, whether such indication is or is not in addition to the indication of weight or measure in accordance with the said standards,

shall be punished with imprisonment for a term which may extend to one year, or with fine which may extend to two thousand rupees, or with both, and, for the second or subsequent offence, with imprisonment for a term which may extend to three years and also with fine.

Penalty
for con-
traven-
tion of
section
22.

45. Whoever,—

(a) sells, offers, exposes or possesses for sale, any weight or measure which has not been verified and stamped under this Act, or

(b) uses, or keeps for use, any weight or measure which, being required to be verified and stamped under this Act, has not been so verified and stamped,

shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both, and for the second or subsequent offence, with imprisonment for a term which may extend to one year and also with fine:

Provided that nothing in clause (b) shall apply, in relation to any weight or measure which is used for domestic purposes.

Penalty
for con-
traven-
tion of
section 23.

46. Whoever, being required by section 23 to maintain any record or register, omits or fails to do so, or being required by an inspector to produce any records or registers for his inspection, omits or fails to do so, shall be punished with fine which may extend to one thousand rupees, and, for the second or subsequent offence, with imprisonment for a term which may extend to one year and also with fine.

Penalty
for con-
traven-
tion of
section
24.

47. Whoever, being required by section 24 to present any weight or measure for verification or re-verification, omits or fails, without any reasonable cause to do so, shall be punished with fine which may extend to five hundred rupees, and, for the second or subsequent offence, with imprisonment for a term which may extend to one year and also with fine.

48. Whoever, being required by an Inspector, or any person authorised by or under this Act to exercise the powers of an Inspector, to produce before him for inspection any weight or measure or any document or other record relating thereto, omits or fails, without any reasonable cause, to do so, shall be punished with fine which may extend to one thousand rupees, and, for the second or subsequent offence, with imprisonment for a term which may extend to one year and also with fine.

Penalty for contravention of section 28.

49. Whoever obstructs the entry of an Inspector, or any person authorised by or under this Act to exercise the powers of an Inspector, into any premises for the inspection and verification of any weight or measure or any document or other record relating thereto or the net contents of any packaged commodity or for any other prescribed purpose, shall be punished with imprisonment for a term which may extend to two years, and, for the second or subsequent offence, with imprisonment for a term which may extend to five years.

Penalty for contravention of section 29.

50. Whoever prevents the Controller or any officer authorised by the Controller in this behalf, from searching any premises or prevents an Inspector from making any seizure of any weight, measure, packaged commodity, goods, document, record or label, shall be punished with imprisonment for a term which may extend to two years, and, for the second or subsequent offence, with imprisonment for a term which may extend to five years and also with fine.

Penalty for contravention of sections 30 and 31.

51. (1) Whoever manufactures, distributes, packs, sells or keeps for sale or offers or exposes for sale, or has in his possession for sale, any commodity in packaged form, shall, unless each such package conforms to the provisions of the Standards Act and the rules made thereunder, read with section 33, be punished with fine which may extend to five thousand rupees, and, for the second or subsequent offence, with imprisonment for a term which may extend to five years and also with fine.

Penalty for contravention of section 33.

(2) Whoever manufactures, packs, distributes or sells, or causes to be manufactured, packed, distributed or sold, any commodity in packaged form, knowing or having reason to believe that the commodity contained in such package is lesser in weight, measure or number than the weight, measure or number, as the case may be, stated on the package or label thereon, shall be punished with imprisonment for a term which may extend to two years, or with fine which may extend to three thousand rupees, or with both, and, for the second or subsequent offence, with imprisonment for a term which may extend to five years and also with fine.

Explanation.—In determining, for the purpose of this sub-section, whether the quantity contained in a package is lesser than the quantity declared on the package or label thereon, the maximum permissible error specified under the Standards Act in relation to the commodity contained in such package, shall be taken into account.

52. Whoever sells any commodity by heaps without complying with the provisions of section 35, shall be punished with fine which may extend to one thousand rupees, and, for the second or subsequent offence, with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Penalty for contravention of section 35.

Penalty
for tam-
pering
with
licence.

53. Whoever alters or otherwise tampers with any licence issued or renewed under this Act or any rule made thereunder, otherwise than in accordance with any authorisation made by the Controller in this behalf, shall be punished with fine which may extend to two thousand rupees, or with imprisonment for a term which may extend to one year, or with both.

Penalty
for
selling
or de-
livering
rejected
weights
and
measures.

54. Whoever sells, delivers or disposes of, or causes to be sold, delivered or disposed of, any weight or measure which has been rejected on verification under this Act or the Standards Act, or any rule made under either of the said Acts, shall be punished with imprisonment for a term which may extend to one year, or with fine which may extend to two thousand rupees, or with both:

Provided that nothing in this section shall apply to the sale, as scrap, of any rejected weight or measure which has been defaced in the prescribed manner.

Penalty
for per-
sonation
of offi-
cials.

55. Whoever personates in any way the Controller, Additional Controller or an Inspector or any other officer authorised by the Controller, shall be punished with imprisonment for a term which may extend to three years.

Penalty
for giv-
ing false
informa-
tion or
maintain-
ing false
records
or re-
gisters.

56. (1) Whoever gives information to a Controller, Additional Controller or an Inspector or any other officer authorised by the Controller, which he may require or ask for in the course of his duty and which such person either knows or has reason to believe to be false or does not believe to be true, shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

(2) Whoever, being required by or under this Act so to do, submits a return or maintain any record or register which is false in any material particular, shall be punished with fine which may extend to two thousand rupees, and, for the second or subsequent offence, with imprisonment for a term which may extend to one year and also with fine.

Wilful
verifica-
tion or
disclo-
sure in
contra-
vention
of law.

57. (1) If any Inspector or any other officer exercising powers under this Act or any rule made thereunder wilfully verifies or stamps any weight or measure in contravention of the provisions of this Act or of any rule made thereunder, he shall, for every such offence, be punished with imprisonment for a term which may extend to one year, or with fine which may extend to two thousand rupees, or with both.

(2) If any Inspector or other officer who enters into any premises in the course of his duty wilfully discloses, except in the performance of such duty, to any person any information obtained by him from such premises with regard to any trade secret or any secret in relation to any manufacturing process, he shall be punished with imprisonment for a term which may extend to one year, or with fine which may extend to two thousand rupees, or with both.

Vexatious
search.

58. An Inspector or any other officer exercising powers under this Act or any rule or order made thereunder who knows that there are no reasonable grounds for so doing, and yet—

(a) searches, or causes to be searched, any house, conveyance or place, or

(b) searches any person, or

(c) seizes any weight, measure or other movable property,

shall, for every such offence, be punished with imprisonment for a term which may extend to one year or with fine which may extend to two thousand rupees, or with both.

59. Whoever contravenes any provision of this Act for the contravention of which no punishment has been separately provided for in this Act, shall be punished with fine which may extend to two thousand rupees.

Penalty for contraventions not separately provided for.

60. (1) If any person—

(a) makes or manufactures, or causes to be made or manufactured, any false weight or measure, or

(b) uses, or causes to be used, any false or unverified weight or measure in any transaction or for industrial production or for protection, or

(c) sells, distributes, delivers or otherwise transfers, or causes to be sold, distributed, delivered or otherwise transferred, any false or unverified weight or measure,

Presumption to be made in certain cases.

it shall be presumed, until the contrary is proved, that he had done so with the knowledge that the weight or measure was a false or unverified weight or measure, as the case may be.

(2) If any person has in his possession, custody or control any false or unverified weight or measure in such circumstances as to indicate that such weight or measure is likely to be used in any transaction or for industrial production or for protection, it shall be presumed, until the contrary is proved, that such false or unverified weight or measure was possessed, held or controlled by such person with the intention of using the same in any transaction or for industrial production or for protection.

61. (1) Any employer, who knows or has reason to believe that any person employed by him has, in the course of such employment, contravened any provision of this Act or any rule made thereunder, shall be deemed to have abetted an offence against this Act:

When employer to be deemed to have abetted an offence.

Provided that no such abetment shall be deemed to have taken place if such employer has, before the expiry of seven days from the date on which—

(a) he comes to know of the contravention, or

(b) he has reason to believe that such contravention has been made,

intimated, in writing, to the Controller the name of the person by whom such contravention was made and the date and other particulars of such contravention.

(2) Whoever is deemed under sub-section (1) to have abetted an offence against this Act shall be punished with imprisonment for a

term which may extend to one year, or with fine which may extend to two thousand rupees, or with both, and, for the second or subsequent offence, with imprisonment for a term which may extend to five years and also with fine.

Explanation.—Dismissal or termination of service of an employee after the expiry of the period specified in the proviso to sub-section (1) shall not absolve any employer of his liability under this sub-section.

Offices
by com-
panies.

62. (1) If the person committing an offence under this Act is a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any person liable to punishment if he proves that the offence was committed without his knowledge, or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(a) “company” means any body corporate and includes a firm or other association of individuals; and

(b) “director”, in relation to a firm, means a partner in the firm.

Cogni-
zance
of
offences.

63. Notwithstanding anything contained in the Code of Criminal Procedure, 1973,—

2 of 1974.

(a) no court shall take cognizance of an offence punishable under this Act except upon a complaint, in writing, made by the Controller or any other officer authorised in this behalf by the Controller by general or special order;

(b) no court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try any offence punishable under this Act.

Summary
trial of
certain
offences.

64. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, an offence punishable under section 36, section 38, section 39, section 40, section 41, section 42, section 45, section 51, section 52 or sub-section (3) of section 71 may be tried summarily.

2 of 1974.

65. (1) Any offence punishable under section 39, section 40, section 41, section 42, section 44, section 45, section 46, section 47, section 48, section 51, section 52, section 54 or section 59 or any rule made under sub-section (3) of section 72, may either before or after the institution of the prosecution, be compounded, by the Controller or such other officer as may be authorised in this behalf by the Controller, on payment, for credit to the State Government, of such sum as the Controller or such other officer may specify:

Com-
pounding
of
offences.

Provided that such sum shall not, in any case, exceed the maximum amount of the fine which may be imposed under this Act for the offence so compounded.

(2) Nothing contained in sub-section (1) shall apply to a person who commits the same or similar offence within a period of three years from the date on which the first offence, committed by him, was compounded.

Explanation.—For the purpose of this sub-section, any second or subsequent offence committed after the expiry of a period of three years from the date on which the offence was previously compounded, shall be deemed to be a first offence.

(3) Where an offence has been compounded under sub-section (1), no proceeding or further proceeding, as the case may be, shall be taken against the offender, in respect of the offence so compounded, and the offender, if in custody, shall be discharged forthwith.

(4) No offence punishable under this Act shall be compounded except as provided by this section.

45 of 1860.

66. The provisions of the Indian Penal Code, in so far as such provisions relate to offences with regard to weights or measures, shall not apply to any offence which is punishable under this Act.

Provi-
sions of
Indian
Penal
Code not
to apply
to any
offence
under
this Act.

CHAPTER XII

MISCELLANEOUS

67. (1) Where the business of a person licensed under this Act is transmitted by succession, intestate or testamentary, the heir or legatee, as the case may be, of such person shall not carry on the business of such licensee either in his own name or in any other name, unless the heir or legatee has, before the expiry of sixty days after the date of such transmission, made to the Controller an application for the issue of a licence in accordance with the provisions of this Act:

Transfer
or trans-
mission
of
business

Provided that nothing in this section shall be deemed to prohibit the heir or legatee from carrying on business as such licensee for the aforesaid period of sixty days, and, if he has applied for such licence, until he is granted the licence or is, by a notice in writing informed by the Controller that such licence cannot be granted to him.

(2) Where the business of any person licensed under this Act is transferred by sale, gift, lease or otherwise, the transferee or lessee as

the case may be, shall not carry on such business either in his own name or in any other name, unless he has obtained a licence to carry on such business.

Licences
neither
salable
nor
trans-
ferable.

68. A licence issued or renewed under this Act shall not be saleable or otherwise transferable.

Appeals.

69. (1) Subject to the provisions of sub-section (2), an appeal shall lie—

(a) from every decision given or order made under Chapter V, Chapter VI, Chapter VII, Chapter VIII, Chapter IX or Chapter X of this Act, by—

(i) an Inspector, or

(ii) an Additional Controller,

to the Controller; and

(b) from every decision given or order made by the Controller under Chapter V, Chapter VI, Chapter VII, Chapter VIII, Chapter IX or Chapter X of this Act, not being a decision made in appeal under clause (a),

to the State Government or any officer specially authorised in this behalf by that Government.

(2) Every such appeal shall be preferred within sixty days from the date of the decision or order appealed against:

Provided that the appellate authority may, if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal within the said period of sixty days, permit the appellant to prefer the appeal within a further period of sixty days.

(3) On receipt of any such appeal, the appellate authority shall, after giving the parties to the appeal, a reasonable opportunity of being heard and after making such inquiry as it deems proper, make such order, as it may think fit, confirming, modifying or reversing the decision or order appealed against, or may send back the case with such direction as it may think fit for a fresh decision or order after taking additional evidence, if necessary.

(4) Every appeal shall be preferred on payment of such fees as may be prescribed.

(5) The State Government may, on its own motion or otherwise, call for and examine the record of any proceeding (including a proceeding in appeal) in which any decision or order has been made, for the purpose of satisfying itself as to the correctness, legality or propriety of such decision or order and may pass such orders thereon as it may think fit:

Provided that no decision or order shall be varied under this sub-section so as to prejudicially affect any person unless such person has been given a reasonable opportunity of showing cause against the proposed action.

70. The State Government may, by rules made under section 72, levy such fees, not exceeding—

Levy of fees.

(a) five hundred rupees, for the application for the issue or renewal of a licence for making or manufacturing of any weight or measure,

(b) one hundred rupees, for the issue of a licence for repairing or selling of any weight or measure,

(c) fifty rupees, for the alteration of any licence,

(d) five thousand rupees, on a graded scale, for the verification of any weight or measure, having regard to the time and labour which may be involved in making such verification,

(e) ten rupees, for the adjustment of any weight or measure,

(f) ten rupees, for the issue of a duplicate licence or certificate of verification,

(g) one rupee, for every one hundred words or less, for the grant of copies of any document, not being a document of a confidential nature,

(h) twenty-five rupees, for any appeal preferred under this Act,

(i) five rupees, for application for registration or renewal of registration under section 17.

71. (1) The State Government may, by notification, direct that any power exercisable by it under this Act or any rule made thereunder, not being a power conferred by section 69 (relating to appeal) or section 70 (power to lay down scale of fee) or section 72 (power to make rules), in relation to such matters and subject to such conditions as may be specified, may be exercised also by such officer subordinate to it as may be specified in the notification.

Delegation of powers.

(2) Subject to any general or special direction or condition imposed by the State Government, any person authorised by the State Government to exercise any powers may exercise those powers in the same manner and to the same extent as if they had been conferred on that person directly by this Act and not by way of delegation.

72. (1) The State Government may, by notification and after consultation with the Central Government, make rules to carry out the provisions of this Act.

Power to make rules.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the class of goods, services, undertakings or users in relation to which no transaction, dealing or contract, or industrial production or use for protection shall be made or had or undertaken except by such weight, measure or number as required by section 10;

(b) the places at which, and the custody in which, the following standards shall be kept, namely:—

(i) reference standards,

(ii) secondary standards,

(iii) working standards,

as required by section 12 and sub-section (5) of section 14;

(c) the form and details of particulars for identification of weight or measure referred to in sub-section (2) of section 15;

(d) the time within which an application referred to in sub-section (1) of section 17 shall be made, the particulars which such application shall contain and the form and manner in which such application shall be made;

(e) the form and manner in which the register referred to in sub-section (2) of section 17 shall be maintained;

(f) the form and manner in which an application shall be made under sub-section (3) of section 17;

(g) the form in which an application shall be made for the issue or renewal of a licence to carry on business as a maker, manufacturer, repairer or dealer of any weight or measure, as required by sub-section (4) of section 19;

(h) the form in which and the conditions, limitations and restrictions subject to which any licence may be issued and the period of validity of such licence, as required by sub-section (2) of section 19;

(i) the sum to be furnished by a repairer as security as required by sub-section (7) of section 19;

(j) the description of weight or measure which may not be sold by a user except with the written permission of the Controller as required by sub-section (8) of section 19;

(k) the manner of disposal of weights or measures after cancellation of licence and the distribution of proceeds thereof as required by sub-section (5) of section 20;

(l) the records and registers relating to weights or measures to be maintained in pursuance of the provisions of sub-section (1) of section 23;

(m) the period within which weights or measures shall be verified or re-verified as required by sub-section (2) of section 24;

(n) the steps to be taken for verifying any weight or measure which cannot, or should not, be moved from its location, as required by the proviso to sub-section (3) of section 24;

(o) the form in which a certificate of verification of any weight or measure shall be granted as required by sub-section (4) of section 24 and the form in which the certificate referred to in sub-section (5) of section 24 shall be issued and the details which such certificate shall contain, as required by sub-section (6) of section 24;

(p) the manner of disposal of seized articles which are subject to speedy or natural decay, as required by the proviso to sub-section (1) of section 31;

(q) the time within which an unverified weight or measure seized under this Act may be permitted under the proviso to section 32 to be verified and stamped;

(r) the manner in which, and the conditions, restrictions and limitations subject to which,—

(i) any commodity intended to be sold or distributed, within the State, shall be packaged, or

(ii) the sale or distribution of any commodity in packaged form shall be made within the State,

as required by sub-section (2) of section 33;

(s) the manner of obliteration of stamps on rejected weights or measures, as required by the proviso to section 54;

(t) the form in which appeals may be preferred under section 69 and the procedure for the hearing of appeals;

(u) the amount of fees which may be levied and collected for each of the matters specified in section 70;

(v) any other matter which is required to be, or may be prescribed.

(3) In making any rule under this section, the State Government may provide that a breach thereof shall be punishable with fine which may extend to one thousand rupees.

(4) The power to make rules under this section shall be subject to the condition of the rule being made after previous publication in the Official Gazette.

(5) Every rule made under this section shall, as soon as may be after it is made, be laid before each House of the State Legislature where there are two Houses, and where there is one House of the State Legislature, before that House.

73. (1) Where any type of weight or measure manufactured by a licensed manufacturer is such that all the weights or measures of that type manufactured by him within the State is intended to be sold, distributed or delivered therein, the State Government may, by notification, direct that the model of every such type of weight or measure shall be submitted for approval in accordance with provisions of sections 36, 37 and 38 of the Standards Act, and thereupon, the provisions of the said sections 36, 37 and 38 shall become applicable to such model, and references in those sections to the Central Government and to the Standards Act shall be construed as references, respectively, to the State Government and this Act.

(2) Where the State Government makes a direction under sub-section (1) in relation to any type of weight or measure, any contravention of the provisions of section 39, section 40 or section 41 of the Standards Act in relation to that type of weight or measure shall be an offence punishable under this Act and the punishment provided therefor in the Standards Act shall be deemed to be the punishment provided therefor in this Act as if the said provisions relating to punishments were enacted by this Act.

74. The provisions of this Act, in so far as they relate to the verification and stamping of weights and measures, shall not apply to any weight or measure,—

(a) used in any factory exclusively engaged in the manufacture of any arms, or ammunition, or both, for the use of the Armed Forces of the Union;

(b) used for scientific investigation or for research;

(c) manufactured exclusively for export.

Power of State Government to make provisions of the Standards Act relating to approval of models applicable to models of weights or measures intended to be used exclusively within the State.

Act not to apply in certain cases,

Repeal
and
savings.

75. (1) On the commencement of any provision of this Act in a State, the corresponding provision of any law in force for the time being in that State shall stand repealed, and on such repeal, the provisions of section 6 of the General Clauses Act, 1897, shall apply as if the provisions so repealed were the provisions of a Central Act.

10 of 1897.

(2) Notwithstanding such repeal, any appointment, notification, rule, order, registration, licence, certificate, notice, decision, approval, authorisation or consent made, issued or given under such law shall, if in force at the commencement of this Act, continue to be in force and have effect as if it were made, issued or given under the corresponding provisions of this Act.

STATEMENT OF OBJECTS AND REASONS

In 1956, Parliament enacted the Standards of Weights and Measures Act, 1956 (89 of 1956) with a view to replacing the bewildering varieties of weights and measures in use in the country by standards based on the metric system. For the enforcement of these standards, the States enacted laws applicable to their respective territories.

2. The 1956 Act and the corresponding enforcement legislations were based on the then current international practices. Subsequently, the General Conference on Weights and Measures (CGPM), the international body which takes policy decisions on metrological standards, recommended for adoption by the signatories of the Metre Convention, the International System of Units (SI), which is a modernised and developed form of the metric system. Another international body, namely, the International Organisation of Legal Metrology (OIML) recommended a draft legislation on weights and measures for adoption by the member-countries. India being a signatory to both the Metre Convention and the Convention establishing the OIML, is expected to implement the recommendations of these two international bodies. The Central Government, therefore, set up an expert committee to suggest changes in the existing laws with a view to bringing them in line with the latest international trends and also removing the deficiencies which had been revealed in course of their implementation. After going into the matter in depth the committee suggested the replacement of the 1956 Act as well as the enforcement laws of the States.

3. Parliament enacted the Standards of Weights and Measures Act, 1976 (60 of 1976) to replace the Standards of Weights and Measures Act, 1956 (89 of 1956), with a view to modernising the system of weights and measures in the country. This new Central Act of 1976 necessitated revision of the enforcement laws of the States. Hence, a draft Bill for a new enforcement legislation was circulated to the States. But only a few States have so far taken action for adoption of the Bill.

4. The enforcement aspect of weights and measures which was earlier in the State List was transferred to the Concurrent List by the Forty-second Amendment to the Constitution. As mentioned above, majority of the States have not taken action for the revision of their enforcement legislations. Consequently, the enactment of a comprehensive legislation for the enforcement of the standards established by the 1976 Act has become an urgent necessity. Further, a Parliamentary law for implementation of the modern system of weights and measures would ensure countrywide uniformity not only in the enforcement procedures but also in the scope and coverage of legal control on weights, measures and weighing and measuring instruments.

5. The Bill not only provides for the enforcement of the standards of weights and measures but also provides for better protection to consumers by ensuring metrological accuracy in commercial transactions,

industrial measurements and measurements needed for ensuring public and human safety. In addition, the provisions of the Bill relating to initial verification, periodical verification, inspection in use, verification after repair and registration of users would go a long way in protecting the interest of the consumers.

6. The main features of the Bill are,—

(a) extension of legal control to cover commercial transactions, industrial measurements and measurements involved in ensuring public health and human safety;

(b) creation of an effective enforcement machinery in the States;

(c) registration of users of weights and measures which are subject to periodical verification;

(d) regulation of manufacture, repair and sale of weights and measures;

(e) regulation of packaged commodities sold or distributed in the course of intra-State trade or commerce;

(f) regulation of sale of commodities sold by heaps; and

(g) punishment for offences against the proposed legislation.

BHAGWAT JHA AZAD.

NEW DELHI;

The 7th July, 1984.

FINANCIAL MEMORANDUM

Sub-clause (1) of clause 5 of the Bill provides for appointment of Controllers, Inspectors and other staff. The existing Weights and Measures (Enforcement) Acts of the States apply only to commercial transaction. The Bill, which, if enacted, would replace these Acts, seeks to cover commercial transactions, industrial measurements and measurements needed for ensuring public health and human safety. As a result of wider scope of the Bill additional responsibilities will be cast on the enforcement machinery in the States. More officers and staff will have to be appointed for proper enforcement. The appointment will also have to be made for the Union territories. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India for the Union territories only.

2. It is likely to involve a recurring expenditure of rupees 23 lakhs per annum from the Consolidated Fund of India for enforcing machineries in Union territories.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 72 of the Bill empowers the State Government to make rules, after consultation with the Central Government, to carry out the provisions of the proposed legislation. Sub-clause (2) of this clause enumerates in detail the matters with respect to which the rules may be made under this clause. These matters relate, *inter alia*, to—

- (a) the class of goods or services, in relation to which no transaction, dealing or contract or industrial production or use for protection shall be made, had or undertaken except in accordance with such standard weight or measure as may be specified in the rule;
- (b) the place at which and the custody in which every reference standard, secondary standard and working standard shall be kept;
- (c) the form and manner in which different categories of applications may be made under the concerned provisions of the proposed legislation and the time within which such applications may be made;
- (d) the form in which different categories of licences and certificates, may be issued under the proposed legislation, period of their validity and further period up to which they may be renewed;
- (e) the form and manner in which the Register of Users and other records and registers may be maintained;
- (f) the form in which application for the issue, or renewal, of a licence to commence business as a maker, manufacturer, dealer or repairer of weights and measures may be maintained;
- (g) the manner of verification of weights and measures which cannot be moved from the place of its location and the period within which weights and measures shall be re-verified;
- (h) the manner in which stamps on weights and measures may be obliterated and the manner of disposal of goods which are subject to speedy or natural decay.

2. The power to make rules is subject to the condition of the rules being made after previous publication. Clause 70 of the Bill specifies the maximum limits up to which fees may be levied under the respective provisions of the proposed legislation. The matters with respect to which such rules may be made pertain to matters of procedure or detail. The delegation of legislative power, is, therefore, of a normal character.

SUDARSHAN AGARWAL,
Secretary-General.